

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 730 of 1997

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For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

ASHOK CONSTRUCTION COMPANY

Versus

UNION OF INDIA

Appearance:

MR RAMNANDAN SINGH for Petitioner
MR JD AJMERA for Respondent Nos.1 & 2
No one appears for respondent No.3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 12/08/97

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 10.12.96 passed by the Regional Provident Fund Commissioner, Baroda in proceedings under S.14B of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act') against M/s. Ashok Construction Co., 14, Atul

Park, Karelilbaug, Baroda, GJ/11874 whereby a sum of Rs.11,843/- is sought to be recovered from the petitioner. All these dues are for the period October 1994 to January 1996. Consequential notice dated 7.1.97 issued under S.8F of the Act is also under challenge.

Mr.Singh appearing on behalf of the petitioner has submitted that the entire dues in terms of this order and the notice have already been recovered and nothing remains to be recovered on this count against the petitioner. On the contrary, he has submitted that the dues have been determined against the petitioner for the period October 1994 to January 1996 in this impugned order and the notice without taking into consideration the amendment which was made in the year 1991 and had the amendment is considered, the due amount would have been much lesser. Mr. Ajmera appearing on behalf of respondents Nos.1 and 2 submits that if the amendment of 1991 has been ignored, the matter may be remanded back to the concerned authority for reconsidering the matter in the light of the amendment. I do find from the contents of the order dated 10.12.96 and the enclosed statement of dues that these dues have been calculated without taking into consideration the amendment of 1991 and, therefore, the matter deserves to be remanded back to the Regional Provident Fund Commissioner, Baroda for passing the order afresh in the light of the amendment of 1991 for the period October 1994 to January 1996, for which the impugned order has been passed and for which the consequential notice has been issued. Accordingly the impugned order dated 10.12.96 and the consequential notice dated 7.1.97 issued by the Regional Provident Fund Commissioner, Baroda is hereby quashed and set aside and the matter is remanded back to the Regional Provident Fund Commissioner for passing appropriate orders in accordance with law after hearing the petitioner keeping in view the amendment of 1991. As a result of this exercise, if it is found that any amount has been recovered from the petitioner in excess of the real dues, the same will be required to be returned to the petitioner and in case it is found that the dues, which might be recovered are more than the amount already recovered, such due amount shall be liable to be recovered now from the petitioner. The Regional Provident Fund Commissioner shall pass appropriate orders in the remanded proceedings within a period of one month from the date the certified copy of this order is served upon him, subject to the condition that the proceedings are not prolonged at the instance of the petitioner itself.

This Special Civil Application is allowed accordingly and the Rule is also made absolute in the said terms. No order as to costs.

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